

(3) A description of the applicant's drawback record-keeping program, including the retention period and method (for example, paper, electronic, etc.);

(4) A list of the records that will be maintained, including at least sample import documents, sample export documents, sample inventory and transportation documents (if applicable), sample laboratory or other documents establishing the qualification of merchandise or articles for substitution under the drawback law (if applicable), and sample manufacturing documents (if applicable);

(5) A description of the applicant's specific procedures for:

(i) How drawback claims are prepared (if the applicant is a claimant); and

(ii) How the applicant will fulfill any requirements under the drawback law and regulations applicable to its role in the drawback program;

(6) A description of the applicant's procedures for notifying Customs of variances in, or violations of, its drawback compliance program or negotiated alternative drawback compliance program, and procedures for taking corrective action when notified by Customs of violations or other problems in such program; and

(7) A description of the applicant's procedures for annual review to ensure that its drawback compliance program meets the statutory and regulatory drawback requirements and that Customs is notified of any modifications from the procedures described in this application.

**§ 191.194 Action on application to participate in compliance program.**

(a) *Review by applicable drawback office.* (1) *General.* It is the responsibility of the drawback office where the drawback compliance application package is filed to coordinate its decision making on the package both with Customs Headquarters and with the other field drawback offices as appropriate. Customs processing of the package will consist of the review of the information contained therein as well as any additional information requested (see paragraph (a)(2) of this section).

(2) *Criteria for Customs review.* The drawback office shall review and verify

the information submitted in and with the application. In order for Customs to evaluate the application, Customs may request additional information (including additional sample documents) and/or explanations of any of the information provided for in § 191.193(c) and (d) of this subpart. Based on the information submitted on and with the application and any information so requested, and based on the applicant's record of transactions with Customs, the drawback office will approve or deny the application. The criteria to be considered in reviewing the applicant's record with Customs shall include (as applicable):

(i) The presence or absence of unresolved Customs charges (duties, taxes, or other debts owed Customs);

(ii) The accuracy of the claimant's past drawback claims; and

(iii) Whether accelerated payment of drawback or waiver of prior notice of intent to export was previously revoked or suspended.

(b) *Approval.* Certification as a participant in the drawback compliance program will be given to applicants whose applications are approved under the criteria in paragraph (a)(2) of this section. The applicable drawback office will give written notification to an applicant of its certification as a participant in the drawback compliance program. A Customs broker obtaining certification for a drawback claimant will be sent written notification on behalf of such claimant, with a copy of the notification also being sent to the claimant.

(c) *Benefits of participation in program.* When a party that has been certified as a participant in the drawback compliance program and is generally in compliance with the appropriate procedures and requirements of the program commits a violation of 19 U.S.C. 1593a(a) (see § 191.62(b) of this part), Customs shall, in the absence of fraud or repeated violations, and in lieu of a monetary penalty as otherwise provided under § 1593a, issue a written notice of the violation to the party. Repeated violations by a participant, including a Customs broker, may result

in the issuance of penalties and the removal of certification under the program until corrective action, satisfactory to Customs, is taken.

(d) *Denial.* If certification as a participant in the drawback compliance program is denied to an applicant, the applicant shall be given written notice by the applicable drawback office, specifying the grounds for such denial, together with any action that may be taken to correct the perceived deficiencies, and informing the applicant that such denial may be appealed to the appropriate drawback office and then appealed to Customs Headquarters.

(e) *Revocation.* If the participant commits repeated violations of its drawback compliance program or negotiated alternative drawback compliance program, the applicable drawback office, by written notice, may propose to revoke certification from the participant, until corrective action, satisfactory to Customs, is taken to prevent such violations. The written notice will describe the cause for the proposed revocation and the corrective actions required. The revocation shall take effect 30 days after the date of the proposed revocation if not timely challenged under paragraph (f) of this section. If timely challenged, the revocation will take effect after completion of the challenge procedures in paragraph (f) of this section unless the challenge is successful.

(f) *Appeal of denial or challenge to proposed revocation.* A party may appeal a denial or challenge a proposed revocation of certification as a participant in the drawback compliance program by filing a written appeal, within 30 days of the date of such denial or proposed revocation, with the applicable drawback office. A denial of an appeal or challenge to a proposed revocation may itself be appealed to Customs Headquarters, Office of Field Operations, Office of Trade Operations, within 30 days of receipt of the applicable drawback office's decision. The 30-day period for appeal or challenge with the applicable drawback office and/or with Customs Headquarters may be extended for good cause, upon written request by the applicant for such extension filed with the applicable drawback office or with

Customs Headquarters, as the case may be, within the 30-day period.

**§ 191.195 Combined application for certification in drawback compliance program and waiver of prior notice and/or approval of accelerated payment of drawback.**

An applicant for certification in the drawback compliance program may also, in the same application, apply for waiver of prior notice of intent to export and accelerated payment of drawback, under subpart I of this part. Alternatively, an applicant may separately apply for certification in the drawback compliance program and either or both waiver of prior notice and accelerated payment of drawback. In the former instance, the intent to apply for certification and waiver of prior notice and/or approval of accelerated payment of drawback must be clearly stated. In all instances, all of the requirements for certification and the procedure applied for must be met (for example, in a combined application for certification in the drawback compliance program and both procedures, all of the information required for certification and each procedure, all required sample documents for certification and each procedure, and all required certifications must be included in and with the application).

APPENDIX A TO PART 191—GENERAL  
MANUFACTURING DRAWBACK RULINGS

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